

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.14373 of 1997

DATED: 29-12-2006

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BETWEEN:

Jangam Balwanth Reddy and three others

Petitioners

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And

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State of A.P., rep. by its Secretary, Revenue Department,

A.P. Secretariat, Hyderabad and four others

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.14373 of 1997

ORDER:

1. The four writ petitioners who have instituted the above writ petition sought for a declaration that the action of the respondents in treating the land in Survey No.266/1 of an extent of Ac.7.35 guntas bearing Municipal Nos. 19-4-1/69 to 19-4-1/71 and 19-4-1/68/1 to 19-4-1/68/24 situated at Falaknuma, Bandlaguda village, Hyderabad as an excess land held by the then H.E.H. the Nizam of Hyderabad and allotting the same to rehabilitate the evacuees of the Musi river bed without any notice to the petitioners as arbitrary and illegal.

2. The writ petitioners assert that they are the owners of certain plots of land over which several buildings have been got constructed by them in Bandlaguda village and that the entire extent of Ac.7.35 guntas of land situated in Survey No.266/1 was part of an Inam and that the petitioners 1 and 2 were granted the occupancy rights certificate by the Revenue Divisional Officer in terms of Section 10 of the A.P.(Telangana Area) Abolition of Inams Act,1955 (for short 'the Act') and therefore, they have every right to continue their occupation on the said land. The writ petitioners have also pointed out that when a notification under Section 10 (1) and Section 10(3) of the Urban Land (Ceiling & Regulation) Act, 1976 (for short 'the Urban Land Ceiling Act) has been got published on 23.02.1983 declaring the extent of Ac.7.35 guntas as an excess land of the Prince Mir Mukharam Jah Nawab Mir Barkath Ali Khan Bahadur, the H.E.H. the Nizam of Hyderabad, the petitioners have instituted W.P.No.2731 of 1983 before this court and that a Division Bench of this court had allowed their writ petition. Notwithstanding

the same when the Urban Land Ceiling Authority have proceeded with the matter *ex parte* and once again passed final orders, they have instituted W.P.No.12535 of 1993 in this court. Therefore, the writ petitioners have solicited the aforementioned relief of declaration.

3. The Special Deputy Collector, Incharge of Land Protection in the Collectrate at Hyderabad has filed a detailed counter affidavit in the matter. It has been asserted that on behalf of the Nizam of Hyderabad, his G.P.A. has filed a statement in Form 1 under Section 6(1) of the Urban Land Ceiling Act declaring various properties held by him and situated within the Hyderabad Urban agglomeration. It is also asserted that after due enquiry a final statement under Section 9 of the said Act has been published declaring the said Nizam of Hyderabad as holding an excess land of 22,01,537.56 square metres of area which included 8,37,077.80 square metres of land situated at Falaknuma Palace. It is therefore, asserted that the land situated in Survey No.266/1 of Bandlaguda village including the land of Ac.7.35 guntas said to be owned by the petitioners herein forms part of the aforementioned adjudicatory process carried out in terms of Urban Land Ceiling Act. While dealing with the occupancy rights certificate said to have been granted by the Revenue Divisional Officer, Hyderabad on 11.03.1982 in favour of the petitioners 1 and 2, it has been specifically asserted that the writ petitioners have obtained the said occupancy rights certificate fraudulently and it has also been asserted as to how the Nizam of the erstwhile Hyderabad State being it's Ruler cannot be defined as an Inamdar and hence the grant of occupancy rights certificate in favour of the petitioners 1 and 2 is fraught with patent illegality and is a fraudulent transaction.

4. Be that as it may, the Writ Petition No.12535 of 1993 has been instituted by 8 petitioners of which the petitioners 1 and 2 herein are the first and second petitioners therein. The 4th petitioner herein is the 8th petitioner therein. They have solicited a declaration that Ac.100-00 of land owned by

them and situated in Survey No.266/1 of Bandlaguda village which is outside the compound wall of Falaknuma Palace, Hyderabad, West Division, is not liable to be treated as excess vacant land in terms of provisions contained in the Urban Land Ceiling Act and for quashing the proceedings of the competent authority under the said Act for declaring the same as excess vacant land. One of the specific pleas that has been urged was that the petitioners were granted occupancy rights certificate over the land under the provisions of the Act and hence they could not have been computed within the holding of the Nizam of Hyderabad and on that basis declare the same as excess vacant land. This court had considered the said issue and found that the entire land belongs to the then Nizam and that it could not constitute in any way an Inam land. This court had also observed that the petitioners have failed to prove either their possession or the correctness of their claim of the occupancy rights certificate granted under the Act. Therefore, this court has declared that the petitioners cannot claim any right, title or interest of whatsoever nature in the land in question. The judgment rendered in W.P.No.12535 of 1993 on 27-10-2004 has become final. The writ petitioners 1, 2 and 4 herein are parties to the said writ petition. The finding recorded by this court that the land held by them could not form part of an Inam for one to secure occupancy rights over the same was thus, staring at them. This apart, this court has also come to the conclusion that the entire land belongs to the erstwhile Nizam of Hyderabad State and consequently could not have formed part of an Inam. Therefore, the writ petitioners have been declared not to have any title or right over the Ac.100-00 of land situated in Survey No.266/1 of Bandlaguda village which is the subject matter of consideration in the aforementioned W.P.No.12535 of 1993. Incidentally the writ petitioners have asserted in Para 3 of the affidavit filed in support of the present writ petition, that the land of an extent of Ac.7-35 guntas is situated in Survey No.266/1 Bandlaguda village. Thus the land which is now the subject matter of consideration in the present writ petition is forming part of the larger block or extent of land which was the subject matter of writ petition No.12535 of 1993.

Since the writ petitioners have suffered an adverse finding in W.P. No.12535 of 1993 and they have allowed the same to become final and binding on them, they cannot wriggle out of such a situation by pointing out the proceedings, which arose under the Urban Land Ceiling Act are the subject matter of consideration in W.P.No.12535 of 1993, whereas, in the present writ petition it is not related to the said Act. I am afraid that such a contention is factually incorrect, for, the declaration solicited by the writ petitioners even in the present case centers around the fact that it is declared as excess vacant land held by the Nizam of erstwhile Hyderabad in terms of the Urban Land Ceiling Act only. Since the subject matter and the contentions canvassed in W.P.No.12535 of 1993 substantially covers the present set of pleadings and contentions, and since the adverse finding recorded by this court in W.P.No.12535 of 1993 has already attained finality, the present writ petition deserves to be dismissed. Further the contentions canvassed herein are equally meritless as, the writ petitioners have not bothered to demonstrate as to how Bandlaguda village or the lands adjoining Falaknuma Palace belonging to the Nizam of erstwhile Hyderabad State are Inam lands, particularly so, when the respondents have specifically asserted that the writ petitioners 1 and 2 have obtained the occupancy rights certificate under Section 10 of Act, by fraudulent means. For the failure of writ petitioners to demonstrate bonafides behind their claim, the bald assertion made by them that they have been granted occupancy rights certificates validly and hence unless the same is cancelled in accordance with law, they cannot be proceeded against, cannot be countenanced.

5. However, the writ petitioners have asserted that they are in possession of the land in question and that they have constructed houses thereon which have been assessed by the Municipal Corporation of Hyderabad for property tax. Unfortunately, the Municipal Corporation could not have verified the claims relating to the title to the property, while assessing the buildings constructed on land falling within its limits for assessment of property tax.

Therefore, no serious consideration need be given to the factum of assessment of the buildings owned by the writ petitioners for taxation by the local authority. The learned Government Pleader for Assignment has stated at the bar that the writ petitioners have reconciled to their lack of title over the property in question and that they have solicited regularization of their possession in terms of the scheme enunciated by the State Government under G.O.Ms.No.455 dated 29-7-2002. It is always open to the petitioners to persuade the State Government to regularize their occupations, in the event the State considers the same as not objectionable, and regularize the same subject to collecting the market value of the land in occupation of the writ petitioners.

6. Subject to the above, the W.P. is dismissed as there are no merits, but however without costs.

NOOTY RAMAMOHANA RAO,J

29-12-2006

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